

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL NO: _____

v. : DATE FILED: _____

AFI DRAKE : VIOLATIONS:
18 U.S.C. § 1344 (bank fraud - 53
: counts)
Notice of additional factors
: Notice of forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times relevant to this Indictment:

1. Commerce Bank was a financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation, certificate no. 21140.
2. Commerce Bank had branches in the Eastern District of Pennsylvania and New Jersey.
3. First Union National Bank and its predecessor CoreStates Bank, Midlantic Bank and Fifth Third Bank of Kentucky were financial institutions, the deposits of which were insured by the Federal Deposit Insurance Corporation. Philadelphia Telco Credit Union was a credit union, the deposits of which were insured by the National Credit Union.
4. Defendant AFI DRAKE resided in Philadelphia, Pennsylvania.
5. Commerce Bank permitted account holders to make split deposits, that is deposit a check into an account and immediately receive in cash a portion of the funds deposited

as long as the account holders account had sufficient funds in addition to those of the deposited check to cover the withdrawal.

6. From or about September 1999 through on or about October 6, 2000, in the Eastern District of Pennsylvania and the District of New Jersey, defendant

AFI DRAKE

knowingly executed and attempted to execute a scheme to defraud Commerce Bank, First Union National Bank, Core States Bank, Philadelphia Telco Credit Union, Midlantic Bank and Fifth Third Bank of Kentucky, and to obtain the monies and funds owned by and under the care, custody, and control of Commerce Bank by means of false and fraudulent pretenses, representations, and promises.

THE SCHEME

7. It was the object of the scheme to obtain money from Commerce Bank by making split deposits into Commerce Bank accounts of counterfeit and fraudulent checks purportedly drawn on individual accounts at other banks in Pennsylvania but payable to the Commerce Bank account holders in order to withdraw funds from the Commerce Bank accounts into which the counterfeit checks were deposited.

It was a part of the scheme that:

8. Defendant DRAKE and others known and unknown to the grand jury obtained counterfeit and fraudulent checks that purported to be drawn on individual accounts at banks in Pennsylvania and elsewhere, including Midlantic Bank, Fifth Third Bank of Kentucky, First Union National Bank, Philadelphia Telco Credit Union, and Core States Bank. These accounts were either closed or fictitious accounts, thereby resulting in all the checks being

returned unpaid to Commerce Bank with the notation “account closed” and “account not found.”

9. Defendant DRAKE and others obtained the names, addresses and account numbers of Commerce Bank account holders.

10. Defendant DRAKE and others caused counterfeit and fraudulent checks to be written on the accounts of various account holders at the banks identified in paragraph 7 above and caused those checks to be made payable to Commerce Bank account holders whose names and account information had been obtained.

11. Defendant DRAKE and others negotiated and attempted to negotiate these checks at various New Jersey Commerce Bank branches by posing as the Commerce Bank account holder.

12. Defendant DRAKE and others negotiated these checks by split depositing them, that is depositing a portion of the funds to the account and obtaining a portion of the face amount of the fraudulent check in cash, generally an amount between \$1,000 and \$2,000.

13. Defendant DRAKE and others were permitted to do this only when the Commerce Bank account into which they deposited the check had sufficient funds to cover the withdrawal in the event that the deposited check did not clear.

14. On or about the dates below, defendant DRAKE, aided and abetted the negotiation of the checks listed below, by writing information on the face of the checks such as the payee, check amount, date and in some instances the maker’s signature, such that the checks were subsequently split deposited at various Commerce Bank branches in New Jersey, each check being a separate execution of the scheme and a separate count:

| COUNT | DEPOSIT DATE | MAKER | CHECK NO. | CHECK AMOUNT | DEPOSIT CUSTOMER | CASH OBTAINED |
|-------|--------------|-----------|-----------|--------------|------------------|---------------|
| 1. | 9/28/99 | S.W. | 278 | \$3,175.00 | A.W. | \$2,000.00 |
| 2. | 10/22/99 | S.W. | 227 | \$2,495.25 | H.B. | \$2,095.00 |
| 3. | 10/22/99 | S.W. | 229 | \$2,495.25 | D.H. | \$2,095.00 |
| 4. | 12/16/99 | M.P. | 583 | \$1,888.65 | T.R. | \$1,688.65 |
| 5. | 12/16/99 | M.P. | 596 | \$1,888.65 | S.D. | \$1,688.00 |
| 6. | 12/16/99 | M.P. | 593 | \$1,888.65 | R.H. | \$1,688.00 |
| 7. | 12/17/99 | I.A., Jr. | 614 | \$2,175.00 | C.M. | \$1,800.00 |
| 8. | 12/17/99 | M.P. | 584 | \$1,888.65 | L.K. | \$1,688.00 |
| 9. | 12/17/99 | M.P. | 529 | \$1,888.65 | J.M. | \$1,688.00 |
| 10. | 12/17/99 | M.P. | 589 | \$1,865.00 | M.C. | \$1,665.00 |
| 11. | 12/17/99 | M.P. | 592 | \$1,888.65 | C.K. | \$1,688.00 |
| 12. | 12/20/99 | I.A., Jr. | 613 | \$2,175.00 | C.R. | \$1,800.00 |
| 13. | 12/29/99 | I.A., Jr. | 615 | \$2,175.00 | A.L. | \$1,800.00 |
| 14. | 3/15/00 | V.C. O. | 231 | \$1,525.50 | J.R. | \$1,200.00 |
| 15. | 3/15/00 | V.C. O. | 226 | \$1,525.50 | D.E. | \$1,200.00 |
| 16. | 3/16/00 | V.C. O. | 237 | \$1,525.50 | K.M. | \$1,200.00 |
| 17. | 3/16/00 | V.C. O. | 248 | \$1,525.50 | L.J. | \$1,200.00 |
| 18. | 3/16/00 | V.C. O. | 235 | \$1,525.50 | H.K. | \$1,200.00 |
| 19. | 3/16/00 | V.C. O. | 228 | \$1,525.00 | H.T. | \$1,125.00 |
| 20. | 3/16/00 | V.C. O. | 230 | \$1,525.50 | K.S. | \$1,200.00 |
| 21. | 3/17/00 | V.C. O. | 245 | \$1,525.50 | N.S. | \$1,200.00 |
| 22. | 3/17/00 | V.C. O. | 250 | \$1,525.50 | L.M. | \$1,200.00 |
| 23. | 3/17/00 | V.C. O. | 249 | \$1,525.50 | M.S. | \$1,200.00 |
| 24. | 3/17/00 | V.C. O. | 244 | \$1,525.50 | L.M. | \$1,200.00 |

| COUNT | DEPOSIT DATE | MAKER | CHECK NO. | CHECK AMOUNT | DEPOSIT CUSTOMER | CASH OBTAINED |
|-------|--------------|---------|-----------|--------------|------------------|---------------|
| 25. | 3/17/00 | V.C. O. | 247 | \$1,525.50 | M.L. | \$1,200.00 |
| 26. | 3/17/00 | V.C. O. | 240 | \$1,525.50 | K.G. | \$1,200.00 |
| 27. | 10/6/00 | D.B. | 1081 | \$2,000.00 | P.B. | \$1,200.00 |
| 28. | 10/6/00 | D.B. | 1078 | \$2,000.00 | M.M. | \$1,200.00 |
| 29. | 10/6/00 | D.B. | 1089 | \$2,000.00 | G.S. | \$1,200.00 |
| 30. | 10/6/00 | D.B. | 1088 | \$2,000.00 | N.F. | \$1,200.00 |
| 31. | 10/6/00 | D.B. | 1084 | \$2,000.00 | J.M. | \$1,200.00 |
| 32. | 10/6/00 | D.B. | 1096 | \$2,000.00 | J.W. | \$1,200.00 |
| 33. | 10/6/00 | D.B. | 1094 | \$2,000.00 | A.L. | \$1,200.00 |
| 34. | 10/6/00 | D.B. | 1093 | \$2,000.00 | M.L. | \$1,200.00 |
| 35. | 10/6/00 | D.B. | 1079 | \$2,000.00 | N.M. | \$1,200.00 |
| 36. | 10/6/00 | D.B. | 1083 | \$2000.00 | K.P. | \$1,200.00 |
| 37. | 10/6/00 | D.B. | 1099 | \$2,000.00 | E.T. | \$1,200.00 |
| 38. | 10/6/00 | D.B. | 1098 | \$2,000.00 | C.W. | \$1,200.00 |
| 39. | 10/6/00 | D.B. | 1091 | \$2,000.00 | D.S. | \$1,200.00 |

15. On or about October 6, 2000, defendant AFI DRAKE split deposited and attempted to split deposit counterfeit and fraudulent checks listed below at various Commerce Bank branches in New Jersey, each check being a separate execution of the scheme and a separate count:

| COUNT | MAKER | CHECK NO. | CHECK AMOUNT | DEPOSIT CUSTOMER | CASH OBTAINED |
|-------|-------|-----------|--------------|------------------|---------------|
| 40. | S.H. | 158 | \$1,650.00 | S.K. | \$1,000.00 |
| 41. | S.H. | 149 | \$1,650.00 | L.E.R. | \$1,000.00 |

| COUNT | MAKER | CHECK NO. | CHECK AMOUNT | DEPOSIT CUSTOMER | CASH OBTAINED |
|-------|-------|-----------|--------------|------------------|---------------|
| 42. | S.H. | 136 | \$1,650.00 | K.C. | \$1,000.00 |
| 43. | S.H. | 152 | \$1,650.00 | F.A. | \$1,000.00 |
| 44. | S.H. | 143 | \$1,650.00 | B.T. | \$1,000.00 |
| 45. | S.H. | 141 | \$1,650.00 | D.H. | \$1,000.00 |
| 46. | S.H. | 140 | \$1,650.00 | A.M. | \$1,000.00 |
| 47. | S.H. | 151 | \$1,650.00 | L.W. | \$1,000.00 |
| 48. | S.H. | 148 | \$1,650.00 | R.C. | \$1,000.00 |
| 49. | S.H. | 139 | \$1,650.00 | K.Y. | \$1,000.00 |
| 50. | S.H. | 154 | \$1,650.00 | M.C. | \$1,000.00 |
| 51. | S.H. | 144 | \$1,650.00 | A.R. | \$1,000.00 |
| 52. | S.H. | 145 | \$1,650.00 | P.G. | 0 |
| 53. | S.H. | 155 | \$1,650.00 | C.U. | \$1,000.00 |

In violation of Title 18 United States Code, Sections 1344 and 2.

NOTICE OF ADDITIONAL FACTORS

THE GRAND JURY FURTHER CHARGES THAT:

1. In committing the offense charged in Counts One through Fifty-three of this indictment, defendant Drake:

a. Committed an offense in which the loss exceeded \$ 40,000.00, as described in U.S.S.G. § 2F1.1(b)(1).

b. Committed an offense involving more than minimal planning, as described in U.S.S.G. § 2F1(b)(2).

c. Committed a scheme to defraud more than one victim, as described in U.S.S.G. § 2F1(b)(2).

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1344, set forth in Counts One through Fifty-three of this Indictment, the defendant

AFI DRAKE

shall forfeit to the United States of America any property constituting, or derived from, proceeds obtained directly or indirectly as the result of the violations of Title 18, United States Code, Section 1344, as charged in this Indictment, including, but not limited to, the sum of \$67,508.00.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b), incorporating 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to

the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982(a)(2).

A TRUE BILL:

GRAND JURY FOREPERSON

PATRICK L. MEEHAN
UNITED STATES ATTORNEY